October 18, 2001

D.T.E. 99-110 (Phase II)
Petition of Fitchburg Gas and Electric Light Company for approval of its Electric Reconciliation Mechanism and Inflation Adjustment filing, and accompanying tariffs filed pursuant to G.L. c. 164, § 1A(a), 220 C.M.R. § 11.03(4), and D.P.U./D.T.E 97-115/98-120.

APPEARANCES: Patricia M. French, Esq.
Le Boeuf, Lamb, Greene & MacRae, L.L.P.
260 Franklin Street
Boston, Massachusetts 02110
FOR: FITCHBURG GAS AND ELECTRIC LIGHT COMPANY
Petitioner

Thomas F. Reilly, Attorney General
By: Joseph W. Rogers
Norman D'Amours
George B. Dean
Assistant Attorneys General
200 Portland Street
Boston, Massachusetts 02114
Intervenor

TABLE OF CONTENTS

I. INTRODUCTION

On December 1, 1999, Fitchburg Gas and Electric Light Company ("Fitchburg" or "Company") filed for approval by the Department of Telecommunications and Energy ("Department") its reconciliation of transition costs, transmission costs, standard offer costs, and default service costs. The Company filed its reconciliation pursuant to G.L. c. 164, § 1A(a), 220 C.M.R. § 11.03(4) and its Electric Restructuring Plan ("Restructuring Plan"), approved by the Department in Fitchburg Gas and Electric Light Company, D.P.U./D.T.E. 97-115/98-120 (1999). The Company also proposed changes to the energy efficiency charge and renewables charge pursuant to G.L. c. 25, §§ 19 and 20. The Company filed proposed tariffs, effective January 1, 2000, that incorporated proposed charges and adjustments to its rates. This filing was docketed as D.T.E. 99-110. Notice was issued and the Department requested comments from all the participants in Fitchburg Gas and Electric Light Company, D.T.E. 98-121 (1999), Fitchburg Gas and Electric Light Company, D.T.E. 99-58 (1999) and D.P.U./D.T.E. 97-115/98-120.

On December 6, 1999, the Department also requested comments from all electric distribution companies, the Attorney General of the Commonwealth ("Attorney General"), and the Division of Energy Resources ("DOER") on the issues of distribution rate redesign and an appropriate inflation factor for rates effective January 1, 2000. The Department received responses on December 9, 1999, from the electric distribution companies, the Attorney General, and DOER.

Upon review of these responses, on December 17, 1999, the Department sent all electric distribution companies a letter that delineated guidelines on distribution rate redesign and rate adjustment issues for distribution companies to comply with in their 2000 reconciliation adjustment filings ("December 17, 1999 Letter"). In response, by letter dated December 22, 1999, Fitchburg filed new tariffs to take effect on January 1, 2000. On December 30, 1999, the Department suspended the Company's revised tariffs until January 14, 2000. Fitchburg Gas and Electric Light Company, D.T.E. 99-110 (Phase I) (1999) (Order Suspending Tariffs).

On January 5, 2000, the Department found that the revised tariffs filed by Fitchburg on December 22, 1999 were in compliance with the directives outlined by the Department in its December 17, 1999 Letter, and were in the public interest. D.T.E. 99-110 (Phase I) at 3. Accordingly, the Department approved the Company's revised tariffs, subject to the outcome of Phase II of this proceeding -- the reconciliation of transition costs, transmission costs, standard offer costs, and default service costs. Id.

Pursuant to a subsequent notice, on February 23, 2000, the Department conducted a public hearing and procedural conference on Phase II of this proceeding. The Attorney General filed notice of intervention pursuant to G.L. c. 12, § 11E. The Department conducted evidentiary hearings on May 11, 17, 30, and 31, 2000. The Company sponsored three witnesses: Karen Asbury, director of regulatory services for Unitil Service Corporation ("Unitil"); Mark Collin, vice-president and treasurer of Unitil and Fitchburg's treasurer; and Barbara K. Smith, director of accounting services for Unitil and the controller for Fitchburg.

The Attorney General sponsored one witness, David J. Effron, certified public accountant, a consultant specializing in utility regulation. At the request of the Attorney General, three witnesses from the accounting firm of Arthur Andersen, L.L.P. ("Arthur Andersen"), Thomas V. Milbury, James Moriarty, and Sean Souza, testified concerning Arthur Andersen's audit of Fitchburg's stranded costs pursuant to G.L. c. 164, § 1G(a)(1).[1] The evidentiary record consists of 46 Department exhibits, 41 Attorney General exhibits, and 36 Fitchburg exhibits. The Company responded to three Department record requests and 19 Attorney General record requests. Arthur Andersen responded to one Attorney General record request.

Fitchburg and the Attorney General filed initial and reply briefs. In their respective briefs, Fitchburg and the Attorney General responded to two Department briefing questions.

II. STANDARD OF REVIEW

In reviewing annual reconciliation filings, the Department must ensure that the proposed reconciliations are consistent with or substantially comply with the Electric Utility Restructuring Act, Chapter 164 of the Acts of 1997 ("Restructuring Act"), G.L. c. 164, §§ 1A through 1H, the company's approved restructuring plan, applicable law, and Department precedent. In D.P.U./D.T.E. 97-115/98-120, at 78, the Department found that the Restructuring Plan substantially complied or was consistent with G.L. c. 164.[2]

---

1 The Department is required to conduct a comprehensive audit of companies' transition costs. G.L. c. 164, § 1G(a)(1). The Department contracted with Arthur Andersen to conduct Fitchburg's audit.

2 Fitchburg's Restructuring Plan is Exh. DTE-16; for ease of reference it will be referred

(continued...)

III. SCOPE OF PROCEEDING

A. First Reconciliation Filing

1. Introduction

On January 15, 1999, the Department approved Fitchburg's Restructuring Plan. D.P.U./D.T.E. 97-115/98-120; see Initial Order on the Company's Restructuring Plan, Fitchburg Gas and Electric Light Company, D.T.E. 97-115 (1998). On May 5, 1999, Fitchburg submitted a filing that adjusted transmission, transition, standard offer, and default service rates effective June 1, 1999, for a seven-month period so that changes thereafter would become effective on a calendar-year basis. The May 5, 1999 filing included supporting calculations (Exhs. FGE-4; FGE-7, at 2). On May 28, 1999, the Department approved this filing without comment (Exh. FGE-4).

On July 30, 1999, Fitchburg petitioned the Department for a change in its rates effective September 1, 1999, to include the inflation-adjusted 15 percent rate reduction mandated by the Restructuring Act and the results of its power supply divestiture (Exhs. FGE-3; FGE-7, at 2). On August 27, 1999, the Company submitted a revised filing with accompanying tariffs to comply with the Department's directives set forth by letter issued on August 19, 1999. The Department approved, without comment, Fitchburg's revised filing on September 1, 1999 (Exh. FGE-2). On December 22, 1999, the Company filed its Electric

[2](…continued)
to as Restructuring Plan in this Order.

Reconciliation Mechanisms and Inflation Adjustment Filing, which is the subject of this proceeding (Exh. FGE-1).

2. Positions of the Parties

a. Attorney General

The Attorney General argues that this proceeding is the Company's first reconciliation filing (Attorney General Reply Brief at 2). The Attorney General notes that this proceeding is the first docket opened by the Department to consider the propriety of the Company's prior reconciliations (id.). The Attorney General argues that the prior approvals of the May 5, 1999 and July 30, 1999 filings were limited to tariffs and did not extend to the underlying calculations (id.).

b. The Company

The Company states that this proceeding is Fitchburg's third reconciliation proceeding, and the first investigation of a Fitchburg reconciliation filing since the completion of the initial audit by Arthur Andersen, pursuant to G.L. c. 164, § 1G(a)(1) (Company Brief at 2-3, citing Exhs. AG-1; AG-2). According to the Company, the first two reconciliations were filed on May 5, 1999 and July 30, 1999 (Exhs. FGE-4; FGE-3). Fitchburg states that both filings were approved with no limiting language (Company Brief at 2). Further, Fitchburg argues that state regulatory policy mandates that the Department recognize finality in its orders (id. at 2). Lastly, Fitchburg argues that review of its approved reconciliation filings may constitute retroactive ratemaking and therefore may be unlawful (Company Reply Brief at 2-3, citing Exhs. FGE-2; FGE-3; FGE-4). However, Fitchburg states that this proceeding is "the first substantive review of its reconciliation mechanisms," and that the "reconciliation period should begin March 1, 1998" (Company Brief at 35).

3. Analysis and Findings

The Department routinely approves tariffs for implementation subject to further review and reconciliation. Although the Department approved the Company's May 5, 1999 and July 30, 1999 filings without comment, the Department had not yet audited, reviewed, and reconciled the difference between projected transition costs and actual transition costs as required by the Restructuring Act. G.L. c. 164, §§ 1A(a) and 1G.[3] Furthermore, the Department had deferred resolution of certain transition cost issues until completion of the comprehensive audit by Arthur Andersen, pursuant to G.L. c. 164, § 1G(a)(1). D.T.E. 97-115, at 9, 11-12; D.P.U./D.T.E. 97-115/98-120, at 55, 61-62, 64. On August 25, 1999, Arthur Andersen submitted the comprehensive audit to the Department (Exhs. AG-1; AG-2). Thus, the Department's approvals of the May 5, 1999 and July 30, 1999 filings did not extend to the underlying calculations of transition costs. Moreover, as Fitchburg has admitted, this proceeding is "the Department's first substantive review of [the Company's transition cost] reconciliation mechanisms," and the "reconciliation should begin with March 1, 1998" (Company Brief at 35). Therefore, we find that this proceeding is Fitchburg's first

---

[3] As noted, Fitchburg's May 5, 1999 filing (Exh. FGE-4) reset certain tariffs for effect June 1, 1999, reset rates for a seven-month period, and was stamp-approved by the Department on May 28, 1999. The July 30, 1999 filing (Exh. FGE-3) adjusted charges to reflect: (1) a mandatory 15 percent rate discount; (2) the results of Fitchburg's power supply divestiture; and (3) adjustment to the Company's rates for inflation (see Exhs. FGE-2; FGE-3; FGE-7, at 2).

transition cost reconciliation filing, and we conclude that any adjustments that the Department may require in this Order would not constitute retroactive ratemaking.

B. Reconciliation Period

1. Introduction

The restructuring agreements approved for Boston Edison Company ("BECo") and Massachusetts Electric Company ("MECo") require these companies to file with the Department, by November 1st of each year, proposed rates to become effective January 1st of the following year. Boston Edison Company, D.P.U. 96-23 (1998); Massachusetts Electric Company, D.P.U. 96-25 (1998). These annual filings include all of the calculations required by the agreements regarding the calculation of the transition charge. These calculations have been made, to the extent reasonably possible, using the actual costs through September 30th of the filing year, estimated costs for the period of October 1st through December 31st of the filing year, and reconciliations of any differences between estimated amounts used in priors years to set the prior year's transition charge and actual costs for that period. On June 20, 2000, the Department requested that the parties respond to a briefing question that addressed the reconciliation period that should be covered by this and future transition charge reconciliations.[4]

---

[4] This briefing question read as follows:

> The Department believes that the reconciliation period for this proceeding, D.T.E. 99-110, should cover the period from March 1, 1998 through September 30, 1999. Future reconciliations shall cover from October 1 of the previous year through September 30 of the year in which the annual reconciliation filing is made. The annual reconciliation filing should be made no later than December 1 each year. Please comment on these proposed dates for the instant and future reconciliations.

(continued...)

2. Positions of the Parties

a. Attorney General

The Attorney General raises no objection to the Company filing its transition costs in the manner prescribed in the BECo and MECo restructuring agreements (Attorney General Brief at 36). However, the Attorney General notes that the Company should recognize that these transition cost reconciliations are made on a calendar-year basis (id.). The Attorney General explains that, for example, BECo's 1999 reconciliation filing reconciled only 1998 costs (id.). The Attorney General states that Fitchburg should be required to follow the same process that is employed by other Massachusetts distribution companies (id.).

b. The Company

The Company states that the reconciliation filings should be made no later than December 1st of each year (Company Brief at 35). The Company avers that these filings should include proposed rates to be effective January 1st of the following year (id.). Fitchburg argues that the proposed rates should be calculated based on nine months of actual data and three months of estimated data for the prior calendar year, and estimated data for the following year (id.). The Company asserts that, with the exception of this filing, actual data that has previously been submitted should not be the subject of Department review (id.). The Company states that since this proceeding is the first substantive review of Fitchburg's reconciliation mechanism, the reconciliation period should begin on March 1, 1998 (id.). The Company also

---

[4](…continued)
Fitchburg Gas and Electric Light Company, D.T.E. 99-110 (Hearing Officer Briefing Questions (June 20, 2000)).

states that since it provided actual data through October 31, 1999, this reconciliation should include data through October 1999 (id.).

3. Analysis and Findings

The Department agrees with the Attorney General that Fitchburg should provide its reconciliation filing in the manner followed by other Massachusetts distribution companies. That is, Fitchburg must provide annual filings that reconcile expenses and revenues on a calendar-year basis and adjust reconciled rates effective January 1st. Fitchburg proposed to submit its future reconciliation filings annually on December 1st. This approach would allow the Company to file actual costs through September 30th and estimated costs for the period October 1st through December 31st. Further, this would provide sufficient time to implement new rates, effective January 1st, that may be subject to further Department review and reconciliation. Accordingly, in future reconciliation filings, Fitchburg shall file with the Department, by December 1st of each year, proposed reconciliation rate adjustments to become effective January 1st of the following year. The reconciliation of expenses and revenues shall use actual expenses and revenues through September 30th of the filing year, and estimated expenses and revenues for the period October 1st through December 31st of the filing year. The three months of estimated expenses and revenues shall be reconciled in the following year.

The Company filed actual costs through October 1999 in this proceeding. While future reconciliation proceedings shall include data that is presented on a calendar-year basis, as discussed above, it is necessary that the reconciliation period for this proceeding cover a longer time period because the Company did not file this proceeding until December 1999, 22 months after the retail access date. In addition, it is reasonable for the Department to reconcile costs over a time period for which it has actual data. Therefore, the Department finds that, in this proceeding, the reconciliation period will be from March 1, 1998 through October 31, 1999.

IV. TRANSITION CHARGE

A. Return on Post-1995 Capital Additions

1. Introduction

The Company proposes to collect a carrying charge on its post-1995 capital additions,[5] from the period of the retail access date through the date of divestiture of the Company's generating assets, in the fixed component of the transition charge (Exhs. FGE-1, at 105-106; DTE-43, at 1; Tr. at 79-80, 287-288).

Fitchburg's Restructuring Plan states that, in the fixed component of its transition charge it may include costs related to the unrecovered net book value of Fitchburg's generation-related investments as of March 1, 1998, excluding any capital additions made after December 31, 1995 (Restructuring Plan, Tab E at 3, § 1.1). Fitchburg's Restructuring Plan also provides for its transition costs to be reduced by a residual value credit ("RVC"), which consists of, among other things, proceeds that Fitchburg receives from divesting its generating assets (id., Tab E at 3, § 1.1.3). One component of the RVC is Fitchburg's share of capital investments incurred after December 31, 1995, for those generating assets that were divested.

---

5 The Company stated that post-1995 capital additions are additions that were undertaken from December 31, 1995 through March 1, 1998 (Tr. at 287). The Company stated that the carrying charges were applied for the period of March 1998 through June 1999 (id.).

2. Position of the Parties

a. Attorney General

The Attorney General states that Fitchburg's inclusion of carrying charges on post-1995 capital additions inappropriately increases Fitchburg's proposed carrying charges by $104,600 (Exh. AG-3, at 9). The Attorney General states that the Company should not be permitted to accrue carrying charges on its post-1995 capital additions because it is inconsistent with the Restructuring Plan (Attorney General Brief at 11-12). Furthermore, the Attorney General adds that post-1995 capital additions are specifically excluded from the transition charge provisions of the Restructuring Act (id. at 12, citing G.L. c. 164, § 1(G)(b)). The Attorney General argues that since post-1995 capital additions do not qualify as transition costs under the Restructuring Act, there is no statutory basis to provide a return on them (id.). The Attorney General maintains that, as with other utilities in the Commonwealth, carrying charges for new capital investment incurred after 1995 was considered an on-going cost of operating those plants (id.). The Attorney General contends that, from the retail access date through the divestiture date, the Company received revenues to recover these costs from kilowatthour ("KWH") sales (id.).

b. The Company

The Company contends that the proposed inclusion of a carrying charge for post-1995 capital additions is consistent with its Restructuring Plan (Company Brief at 17-18, citing Exh. DTE-43). Fitchburg maintains that it carried costs for post-1995 capital additions on its books until implementation of the RVC and concludes that not earning a return would be unjust and inequitable (Tr. at 80). Fitchburg asserts that the appropriate place to earn a carrying charge for these capital additions is in the fixed component of the transition charge (Company Brief at 18).

3. Analysis and Findings

While the Company argues that a carrying charge on its post-1995 capital additions is consistent with its Restructuring Plan, the Department finds that the Restructuring Plan does not allow for a carrying charge on capital additions made after December 31, 1995 (Restructuring Plan, Tab E at 1, 2). Fitchburg's Restructuring Plan states that an element of the RVC is "[Fitchburg]'s share of capital investments for [the divested] unit demonstrated to be prudently incurred after December 31, 1995 . . ." (id. at 3). Fitchburg is allowed to recover its share of capital investments demonstrated to be prudently incurred after December 31, 1995, through the RVC. However, the Company's Restructuring Plan does not provide for a carrying charge to be applied to these investments, nor has any other restructuring plan or settlement approved by the Department so provided. Therefore, the Department rejects the Company's proposal to collect a carrying charge on its post-1995 capital additions in the fixed component of the transition charge.

B. Return on the Fixed Component of the Transition Charge

1. Introduction

The Restructuring Plan provides that the Company recover its transition costs through a non-bypassable transition charge beginning March 1, 1998 (Restructuring Plan, Tab D at

§§ I.2-I.3). Also, the Restructuring Plan provides, among other things, that the fixed component of the transition charge be calculated from March 1, 1998 to December 31, 1998 (id., Tab E Sch. 1, at 1).[6] Further, the Restructuring Plan provides for a carrying charge for the fixed component of the transition charge (id., Tab E at 2).[7]

Fitchburg requests an effective carrying charge equal to a twelve-month return over the first ten months of 1998 (Tr. at 75). As such, Fitchburg proposes to include $1,302,000 in carrying costs for all twelve months of calendar year 1998 as part of its transition charge (Exhs. FGE-7, at 5; AG-1-5, at 3; Tr. at 128-131). Of this amount, $217,000 represents what the Company identified as carrying costs for the period from January 1, 1998 to the retail access date of March 1, 1998 (Exh. AG-3, at 9; Tr. at 130-131).

Fitchburg posits that calendar-year recovery of the return in the first year of retail access was specifically and explicitly identified in the Restructuring Plan and supporting schedules (Restructuring Plan, Tab E; Tr. at 75, 299-301). The Company stated that since it restructured and changed the way it earns its return, the twelve-month period for recovering

---

[6] Fitchburg's Restructuring Plan states, among other things, that the fixed component of its transition charge is calculated as shown on Schedule 1 (Restructuring Plan, Tab E at 1). Fitchburg's carrying charge is determined based on "the average of the beginning and ending year balances in each calendar year beginning in the year of the Retail Access Date" (id., Tab E at 2). Schedule 1 in the Fitchburg Restructuring Plan states that Fitchburg shall calculate its 1998 transition charge from March 1, 1998 to December 31, 1998 (id., Tab E Sch. 1, at 1).

[7] The carrying charge is intended to include revenues sufficient to provide an overall pre-tax carrying charge on stranded investment of 12.45 percent, based on a combined federal and state income tax rate of 38.35 percent, Fitchburg's 1996 year-end capital structure, and a 10.16 percent return on common equity, through December 31, 2009 (Restructuring Plan, Tab E at 2).

transition cost carrying charges reflects an appropriate balance of the compromises needed to be taken into account to effect electric industry restructuring (Tr. at 75).

2. Positions of the Parties

a. Attorney General

The Attorney General contends that the Company's inclusion of pre-retail access date carrying costs in the calculation of the transition charge is inconsistent with the provisions of the Restructuring Act (Attorney General Brief at 10, citing G.L. c. 164, § 1G(b)(3)). The Attorney General states that the Restructuring Act permits carrying costs to be collected only "to the extent that the Department does allow a distribution company to collect a transition charge" (id.).

The Attorney General argues that annualizing twelve months of return over ten months in 1998 would constitute double recovery because the Company was recovering a return on its investment through its traditional cost of service prior to March 1, 1998 (Exh. AG-5, at 5). The Attorney General avers that Fitchburg incurred carrying charges on its fixed costs for only ten months in 1998 because Fitchburg did not implement its transition charge until March 1, 1998 (Exh. AG-3, at 8). Based on this fact, the Attorney General calculated that Fitchburg's carrying costs for 1998 should be $1,085,000 (Exh. AG-3, at 8-9).

b. The Company

The Company maintains that its proposed twelve months of carrying charges for transition costs in 1998 is lawful, appropriate, and explicitly allowed in the Company's Restructuring Plan (Company Brief at 16-17). The Company maintains that the carrying charges in 1998 should be viewed in relation to the reduction in the rate of return on generation assets that resulted from the Restructuring Act, as well as the effect of inflation during the transition period (id. at 17).

3. Analysis and Findings

Fitchburg's Restructuring Plan establishes the carrying charge to be applied to its transition charge as the "average of the beginning and ending balances [of Fitchburg's fixed transition costs] in each calendar year beginning in 1998" multiplied by the Companies 1999 year-end after tax rate of return (Restructuring Plan, Tab E at 2). The term "calendar year" establishes a twelve-month accounting period for recovery of transition costs beginning January 1st and ending December 31st each year (id.).[8] However, the Restructuring Act established March 1, 1998 as the beginning date of retail access. G.L. c. 164, §§ 1A, 1B. Therefore, transition costs did not exist before this date. Since Fitchburg accrued transition costs for only ten months in calendar year 1998, we find that using a ten-month period in calculating Fitchburg's fixed component carrying charge for transition costs incurred in 1998 is consistent with the Restructuring Act. Accordingly, we reject Fitchburg's proposed method of collecting twelve months of carrying costs for the fixed component of transition costs in 1998 because it is inconsistent with the Restructuring Act. The Department will permit the Company to collect carrying costs from March 1, 1998 through December 31, 1998 for the fixed component of transition costs in 1998.

---

8 We note, however, that Schedule 1 in the Restructuring Plan expressly requires that Fitchburg calculate its 1998 transition charges for ten months, from March 1, 1998 to December 31, 1998 (see Restructuring Plan, Tab E, Sch. 1, at 1).

C. Residual Value Credit

1. Introduction

The Company's Restructuring Plan provides for an RVC to account for the sales proceeds from the divestiture of its generating units as an offset to the fixed component of the transition charge (Restructuring Plan, Tab E at 3). The RVC is calculated as the total proceeds adjusted for taxes[9] less: (1) the difference between the costs of standard offer service ("SOS") estimated at the time of the initial transition charge and the actual costs of providing SOS for the period in which Fitchburg met its SOS load from its pre-restructuring power supply portfolio; (2) post-1995 capital additions excluded from plant balances recovered in the transition charge; (3) unrecovered book value of the generating units including fuel inventory, material, and supplies; (4) reasonable transaction costs; and (5) reasonable removal or site clean up costs (id. at 3-4).

In this filing, Fitchburg proposes to calculate its share of SOS costs that are recovered through the RVC as the difference between the wholesale SOS rate[10] and the actual costs that the Company incurred to supply SOS prior to the divestiture of its generating assets (i.e., lost revenues) (Restructuring Plan, Tab E at 3). Among the costs that the Company has proposed

---

[9] In its original RVC calculation the Company did not calculate the deferred tax offset to the net proceeds properly. The Company revised its calculation consistent with the Attorney General's recommendation such that the deferred tax offset is based on the taxes that the Company must actually pay on the sale of the generating units (Exhs. AG-3; FGE-5; FGE-6; Attorney General Brief at 21-22).

[10] The Company explains that its wholesale SOS rate is the estimated price of providing SOS during the period in which Fitchburg met its SOS requirement from its current power supply portfolio (Restructuring Plan, Tab D at V.4, Tab E at 3).

to recover as lost revenues are: (1) the power supply costs from its owned generation portfolio; (2) the Load Estimating and Reporting System ("LERS")/Logica costs;[11] and (3) the generation portfolio management costs (Exh. FGE-7, at 8). In addition, the Company proposed to recover its administrative and transaction costs related to: (1) restructuring activities; and (2) divestiture of its generating assets (Exh. DTE-6, Att. 6B at 91; Tr. at 175-176, 272-274). Each of these costs is discussed below.

2. Power Supply Costs From Owned Generation

a. Introduction

Before the divestiture of its generation assets, Fitchburg had sole ownership of one unit, Fitchburg No. 7 Turbine, and had joint-ownership interests in three units: New Haven Harbor, Millstone Unit 3, and Wyman Unit No. 4 (Tr. at 167).[12] In its Restructuring Plan, Fitchburg stated that it would use its owned and leased generating assets and power purchase agreements ("PPA") to provide SOS in the period before divestiture (Restructuring Plan, Tab D at V.2). Accordingly, during its pre-divestiture period, March 1, 1998 through February 28, 1999, the Company provided SOS from its owned-generation portfolio

---

11 "Logica" costs are the costs of the hardware and software used to collect data that is reported through the LERS (Tr. at 183-186).

12 The Department approved the divestiture of Fitchburg's interest in the New Haven Harbor Station in Fitchburg Gas and Electric Light Company, D.T.E. 98-121 (1999). The Department approved the sale of Fitchburg's interest in Wyman Unit No. 4 and Millstone Unit 3, and the sale of Fitchburg's power purchase agreements: Linweave; Pinetree; Public Service New Hampshire System Power; and Hydro Quebec Firm Energy in Fitchburg Gas and Electric Light Company, D.T.E. 99-58 (1999).

(Exh. FGE-7, at 8-9). For Fitchburg No. 7 Turbine, New Haven Harbor, Millstone Unit 3, and Wyman Unit No. 4, the Company proposed: (1) to recover its share of those units' fuel costs, administrative and general ("A&G") costs, and variable operation and maintenance ("O&M") costs as actual SOS costs in the calculation of the lost revenue component of the RVC; and (2) to recover its share of those units' fixed costs through the fixed component of the transition charge (Exh. FGE-7, at 8; Tr. at 165-167).

b. Positions of the Parties

i. Attorney General

The Attorney General contends that Fitchburg cannot have dollar-for-dollar recovery of the operating costs related to the generating assets used to supply its SOS and default service load because the Department has not approved a dollar-for-dollar recovery (Attorney General Reply Brief at 24). The Attorney General submits that Fitchburg should not be permitted to collect any SOS and default service costs that are above the amount of generation-related costs approved by the Department in Fitchburg's last rate case (Attorney General Brief at 31).

The Attorney General states that while the rates that were in effect prior to March 1, 1998 were the product of the settlement in Fitchburg Gas and Electric Light Company, D.P.U. 84-145 (1984), none of the then-current power supply costs were explicitly adjusted in the settlement (id.). Further, the settlement resulted in a lower rate increase than the Company had originally sought (id.). Accordingly, the Attorney General maintains that the cost of service study filed in D.P.U. 84-145 established the maximum level of power supply costs that were included in rates prior to March 1, 1998 (id.).

The Attorney General argues that to maintain previously-approved power supply cost levels, the Company should have taken generation-related costs established in the D.P.U. 84-145 cost of service study and "unitized" those costs based on the test year KWH sales (id.).[13] The Attorney General contends that the power supply costs that would have been passed through Fitchburg's fuel adjustment charge should be added to these unitized costs (id. at 31-32). Furthermore, the Attorney General states that since the Company is currently collecting a portion of these costs through the transition charge, the transition charge must be reduced by a like amount to avoid double recovery (id.).

ii. The Company

Fitchburg states that the Restructuring Plan and tariff, M.D.T.E. No. 44 state that the SOS reconciliation would reconcile the revenues billed to retail SOS customers with the costs incurred to provide SOS (Company Brief at 27). The Company maintains that the Attorney General's use of the 1983 base rate proceeding to determine recoverable lost revenues is inappropriate because its 1995 cost of service study was approved for unbundling its rates in D.P.U. 97-44 (id. at 28). In addition, the Company argues that the Department approved Fitchburg's recovery of its ongoing generation and purchased power costs, as provided for in its Restructuring Plan (id. at 28, citing D.P.U./D.T.E. 97-115).

---

[13] The Department interprets the Attorney General's use of the word "unitize" to mean the result of the division of the generation related costs by the test year KWH sales.

c. Analysis and Findings

The Restructuring Plan provides that the Company collect "actual costs" of meeting SOS obligations from its pre-restructuring generation portfolio (Restructuring Plan, Tab E at 3). While the Department approved the Restructuring Plan as substantially in compliance with the Restructuring Act because it met the general guidelines for cost recovery, we did not explicitly rule on the scope of actual costs.[14] In determining costs to calculate lost revenues, we have stated:

> Although the Restructuring Act is silent on the treatment of lost revenues, recovery of lost revenues meets the Restructuring Act's intent of allowing distribution companies recovery of their generation costs consistent with those costs that were allowed prior to electric industry restructuring. Therefore the Department finds that the Companies are entitled to recovery of lost revenues.
>
> Lost revenue provisions allow the distribution companies to recover, for each of their generation facilities, for the period between the retail access date and divestiture date, the level of costs they were allowed to collect prior to electric industry restructuring. [Western Massachusetts Electric Company,] D.T.E. 97-120, at 87-92. The principle in the [Western Massachusetts Electric Company] case controls here. The level of costs the Companies collected prior to electric industry restructuring is found in the rates approved by the Department in the Companies most recent rate cases. [Cambridge Electric Light Company,] D.P.U. 92-250;[Commonwealth Electric Company,] D.P.U. 89-114/90-331/91-80. Therefore, the Department finds that the use of the generation costs as approved in the Companies most recent rate cases is appropriate to calculate lost revenues.

Cambridge Electric Light Company/Commonwealth Electric Company, D.T.E. 99-90-C at 36-37 (2001).

---

[14] The scope of actual costs is a specific detail that did not become an issue until Fitchburg's reconciliation.

Based on the Restructuring Act and D.T.E. 99-90-C, the Company is allowed recovery at the level allowed in the Company's last rate case. Accordingly, we find that Fitchburg's proposed method to recover actual A&G and O&M costs related to the generation of electricity for SOS is inconsistent with Department precedent. Therefore, we reject the Company's proposal.

The Company asserts that it is appropriate to use its 1995 cost of service study, which it used to unbundle its rates in D.T.E. 97-44 and its Restructuring Plan filing in D.P.U./D.T.E. 97-115/98-120, to determine its most recently approved generation costs. We conclude that this cost of service study has neither been reviewed nor approved by the Department for the purpose of establishing Fitchburg's generation costs. In Fitchburg Gas and Electric Light Company, D.T.E. 97-44 (1997), the Department approved Fitchburg's implementation of unbundled rates for bill presentation, stating that Fitchburg's unbundled rates are acceptable "for the limited purpose of customer education." Id. at 3.[15] Further, in its decision on the Restructuring Plan, the Department stated: "[t]his proceeding is not the proper forum to investigate the Company's distribution rates. This investigation is to ensure that the Company has met the requirements of the Restructuring Act concerning the rate reduction and unbundled rates." D.T.E. 97/115/98-120, at 39. We conclude, therefore, that it is not appropriate to calculate lost revenues based on the Company's 1995 cost of service study.

---

15 Fitchburg admitted that "as a result of the 'revenue-neutral' constraints placed on this unbundling process, it did not perform the two additional steps that are normally involved in conducting a fully allocated cost-of-service study –- the classification step and the allocation step." D.T.E. 97-44 (Fitchburg Rate Unbundling Compliance filing at 1-2 (March 3, 1997)).

The Department last approved a representative level of A&G and O&M costs related to the generation of electricity in the Company's most recent base rate proceeding, Fitchburg Gas and Electric Light Company, D.P.U. 84-145-A (1985). The Company may recover A&G and O&M costs from its owned generation supply portfolio up to the divestiture date through the lost revenue component of the RVC. The level of costs to be recovered, however, cannot exceed the level of costs approved in D.P.U. 84-145-A. Therefore, we direct the Company to include, as an offset to the RVC, only those owned generating facilities' A&G and O&M costs related to the generation of electricity that were allowed in the rates approved by the Department in D.P.U. 84-145-A for the period March 1998 through the divestiture date.

3. LERS/LOGICA System Costs

a. Introduction

In its lost revenue calculation, the Company proposed to include direct LERS expenses and the amortization of direct Logica expenses for the period March 1998 through December 1999 (Exh. FGE-7, at 8-9, 10-11). The LERS/Logica costs are comprised of a fixed component (for the hardware and software) and a recurring component to report loads (Tr. at 186). The Company stated that the LERS/Logica expenses were incurred as part of its obligation to meet the load reporting requirements of the Independent System Operator-New England ("ISO-NE") (RR-AG-11; Tr. at 188).

The Company stated that it is required to report to ISO-NE the load of individual customers that it serves as a load provider, and that the LERS offered by Logica allows Fitchburg to report those loads (Restructuring Plan, Tab D at VII.2; Tr. at 183-184). In its

Restructuring Plan, Fitchburg stated that it intended to utilize the services of Logica for load estimation and that the Company was proceeding toward functional readiness for load estimation by March 1, 1998 (Restructuring Plan, Tab D at VII.3). The Company also stated that, but for the restructuring of the electric utility industry and the provision of open access, the Company would not have been required to report the individual loads of its customers (Tr. at 183-184). Finally, the Company stated that it did not put LERS out to bid and that other alternatives were not considered (RR-AG-12; Tr. at 186-187).

b. Positions of the Parties

i. Attorney General

The Attorney General argues that load estimation costs such as LERS/Logica are already being recovered through the Company's distribution rates as part of either A&G or O&M expenses (Attorney General Brief at 33). The Attorney General asserts that A&G or O&M expenses are a portion of the costs of operating a utility on an ongoing basis (Attorney General Reply Brief at 15, citing Exh. AG-RR-8). He therefore proposes that the recovery of administrative costs should be through distribution rates (Attorney General Reply Brief at 14, citing Exh. AG-5, at 1-3). The Attorney General urges the Department to deny Fitchburg's recovery of all LERS/Logica costs through lost revenues (Attorney General Brief at 33).

ii. The Company

The Company argues that it would be unfair to exclude the costs of a system, LERS/Logica, made necessary by the institution of SOS, particularly when considering the fact that Fitchburg's Restructuring Plan states that the Company can collect all reasonable costs incurred to provide SOS (Company Brief at 26, citing Restructuring Plan, Tab D at VII.2-VII.4). The Company argues that LERS/Logica and its associated expenses were reasonable costs incurred in order to provide SOS and default service; therefore, as a part of lost revenues, it should be allowed to recover the costs of LERS/Logica (id. at 27, citing Exh. AG-1-11).

c. Analysis and Findings

As noted in D.T.E. 99-90-C, at 36-37, the Act's intent in allowing distribution companies recovery of lost revenues is to permit them to recover their generation costs consistent with those costs that were allowed prior to electric industry restructuring. Since Fitchburg did not have the LERS/Logica system prior to retail access, these costs would not have been included in rates prior to electric industry restructuring. Nevertheless, the Company's obligation to meet ISO-NE load reporting requirements is an administrative task that benefits all of its retail ratepayers, including those receiving generation from a competitive supplier. See Pricing and Procurement of Default Service, D.T.E. 99-60-C at 13 (2000). Accordingly, the Department finds that the LERS/Logica costs are more appropriately accounted for through distribution rates rather than the transition charge or generation rates. Therefore, the Department finds that it is inappropriate for the Company to recover

LERS/Logica costs through lost revenues in the transition charge.[16] The Company may seek recovery of such costs for consideration in a subsequent distribution rate case.

4. Generation Portfolio Management Costs

a. Introduction

Fitchburg included, in the actual costs of providing SOS, a category of costs labeled "[Unitil] time spent on portfolio management" from March 1998 through December 1999 (Exhs. FGE-1, Tab D at 26; FGE-7, at 8-9). The Company maintains that generation portfolio management costs were incurred to provide SOS (Tr. at 120-121, 214-216). Fitchburg stated that, prior to the divestiture of its generating assets, it was using its generation portfolio to provide SOS (id. at 121). The Company stated that the Power Supply Group at Unitil is responsible for administering Fitchburg's power supply portfolio (id. at 215). Fitchburg stated that the Power Supply Group's costs were charged directly to SOS (id.).[17]

b. Positions of the Parties

i. Attorney General

The Attorney General states that Unitil generation portfolio management (also referred to as contract management) costs are like the LERS/Logica costs in that they are already included in Fitchburg's distribution rates (Attorney General Brief at 33). The Attorney General claims that the cost of service study used to unbundle the Company's distribution rates in

---

16 At some point in the future, the Department may require distribution companies to include administrative costs associated with the offer of SOS or default service in the price of those services.

17 Fitchburg has obtained all of its SOS load requirements from Constellation since March 1, 1999 (Tr. at 197-198).

D.P.U. 97-44 indicates that the cost of outside services associated with power supply management were included in the distribution A&G and O&M expenses, which the Attorney General alleges may include the 1995 equivalent to the Unitil generation portfolio management costs (id.). The Attorney General contends that the Company must have incurred generation portfolio management costs during the test year (id.). Given that the Company's A&G and O&M expenses were included in the distribution function, the Attorney General argues that the current distribution rates appear to be recovering generation portfolio management costs (id.). Therefore, the Attorney General asserts that adding the post-March 1, 1998 power management costs to the cost of providing SOS and default service is tantamount to double recovery (id. at 34).

ii. The Company

With respect to the generation portfolio management costs, the Company proposes to book these costs to SOS because its Restructuring Plan allows it to recover, through SOS, all reasonable costs of providing the service (Company Brief at 27, citing Restructuring Plan, Tab D at V.5-V.6). According to the Company, the costs in question are clearly reasonably incurred SOS costs and, therefore, are recoverable through SOS pursuant to its Restructuring Plan (id. at 28).

c. Analysis and Findings

Generation portfolio management costs are costs that the Company incurred to provide SOS. The Company's Restructuring Plan allows for the recovery of costs related to the provision of SOS. However, as we discussed in Section IV.C.2.c. above, the Department only allows recovery of these costs up to the level of costs approved by the Department in the Company's last base rate proceeding, D.P.U. 84-145-A. D.T.E. 99-90-C at 36-37. Therefore, we direct the Company to include in the costs of providing SOS only those generation portfolio management costs that were allowed in the rates that were approved by the Department in D.P.U. 84-145-A for the period March 1998 through the divestiture date.

5. Transaction Costs

a. Introduction

The Company stated that it had accrued $592,770 of administrative and transaction costs that are directly related to the divestiture of its generating assets (Exhs. DTE-6, Att. 6B at 91; AG-1-18; Tr. at 175-176, 272-273). In addition, Fitchburg claimed that it had accrued $2,482,223 of administrative and transaction costs that were related to restructuring activities (Exhs. DTE-6, Att. 6B at 91; AG-1-18). Fitchburg proposed to allocate 60 percent of these costs to divestiture-related costs (Exhs. DTE-6, Att. 6B at 91; AG-1-18). As a result, Fitchburg proposed to recover an additional $1,489,334 in administrative and transaction costs as divestiture-related costs that the Company allocated from restructuring activities (Exhs. DTE-6, Att. 6B at 91; AG-1-18; Tr. at 175-176, 272-273).[18]

---

18 The Company stated that it was "difficult" to determine which potion of its restructuring costs were related to its divestiture, so it allocated its total restructuring costs between divestiture costs and "general" restructuring transaction costs based on the ratio of the portion of the Company's R-1 rate attributable to energy supply (60 percent) to that portion attributable to transmission and distribution (40 percent) (Exhs. DTE-6, Att. 6B, at 91, n.1; AG-1-18; Tr. at 175). This 60/40 percent allocation method resulted in Fitchburg allocating $1,489,334 to "divestiture" transaction costs and $992,889 to "general restructuring" transaction costs from the total (continued...)

The total amount of administrative and transaction costs that Fitchburg proposed to recover as an offset to the RVC through October 31, 1999 is $2,082,104 ($1,489,334 allocated from restructuring activities plus $592,770 in direct divestiture costs) (Exhs. DTE-6, Att. 6B at 91; AG-1-18; Tr. at 274). The Company stated that the inclusion of these costs is consistent with its Restructuring Plan because they are divestiture-related administrative and transaction costs (Exh. DTE-18, at 11-12; Tr. at 272).

b. Positions of the Parties

i. Attorney General

The Attorney General requests that the Department deny Fitchburg's attempt to recover in its transition charge those administrative and transaction costs that the Company claims are associated with restructuring because it would be inconsistent with the Restructuring Act and Fitchburg's Restructuring Plan (Attorney General Brief at 7). The Attorney General argues that only administrative and transaction costs that are directly associated with the divestiture of the Company's generating assets are eligible for recovery as transition costs as an offset in Fitchburg's RVC (id. at 7-8, citing G.L. c. 164, § 1G(b)(1)).

The Attorney General states that only $342,333 of Fitchburg's proposed administrative and transaction costs are directly associated with the divestiture of the Company's generating assets, and that the Department should allow only this amount of administrative and transaction costs to be recovered as an offset to the RVC (Exhs. DTE-6, Att. 6B at 91; AG-1-18;

---

[18](…continued)
of $2,482,223 in "restructuring" costs (Exhs. DTE-6, Att. 6B at 91; AG-1-18).

Tr. at 399).[19] The Attorney General concluded that the remaining costs that were classified as administrative and transaction costs by the Company would be more appropriately recovered in distribution rates (Tr. at 393).

ii. The Company

The Company avers that the entire $2,082,103 of administrative and transaction costs included by Fitchburg represents the costs of divesting its generating assets, unbundling its rates, and providing customer choice (Company Brief at 24). Fitchburg argues that its participation in the proceedings of other electric utilities illuminated the intricacies of the buy-outs undertaken by other companies, which qualifies the costs associated with Fitchburg's participation in these proceedings as "reasonable" costs to be recovered as a part of economic buy-out payments (id. at 22).

The Company argues that the costs of achieving restructuring are not part of "normal utility operations" (id. at 22, n.10). The Company states that, based on its 1995 functionalized cost of service study, it included $2,400,000 in administrative and general expenses in its distribution rates for routine participation in regulatory proceedings (such as performance reviews, fuel clause adjustments, load forecasts and integrated resource management) (id.

19 Specifically, the Attorney General proposed that the Company include: (1) $146,558 related to Fitchburg's Constellation and Select contracts; (2) $102,954 related to Fitchburg's PPA auction; and (3) $92,820 related to the divestiture of Fitchburg's generating assets (Exh. DTE-6, Att. 6B at 91; Tr. at 392).

at 22-23).[20] The Company claims that the costs at issue here are truly extraordinary costs that were not intended to be included in the Company's base rates (id. at 24).

c. Analysis and Findings

Fitchburg requests to recover through an offset to the RVC, $2,082,103 of administrative and transaction expenses. Fitchburg claims that $1,489,334 of this total is attributable to restructuring activities, while $592,770 of this total is attributable to direct-divestiture activities (Exhs. DTE-6, Att. 6B at 91, columns D, F and H; AG-1-18).

A provision of Fitchburg's Restructuring Plan states that the Company may recover, "reasonable transaction costs associated with the market valuation and divestiture, including reasonable administrative costs as well as the cost of refinancing associated with unit sale" (Restructuring Plan, Tab E at 3). The Department may allow a distribution company to recover, as an offset to the RVC, administrative and transaction costs associated with the divestiture of that distribution company's power supply portfolio. G.L. c. 164, §§ 1A, 1G; 220 C.M.R. § 11.03.

The Department first addresses the $1,489,334 that Fitchburg allocated from its total restructuring expenses as divestiture-related administrative and transaction costs. Fitchburg stated that it is already recovering approximately $2,400,000 in administrative and transaction costs, such as performance reviews, fuel clause adjustments, load forecasts and integrated

---

20 In its Restructuring Plan, Fitchburg based the design of its unbundled retail rates on its 1995 cost of service study, which was part of the Company's rate unbundling compliance filing and the fuel and conservation charges that were in effect in August 1997. D.P.U./D.T.E. 97-115/98-120, at 35.

resource management filings, in its base rates (Company Brief at 22-23). However, since the advent of electric restructuring and the subsequent divestiture of Fitchburg's generating assets, the extent and nature of participation related to these proceedings has been reduced, if not eliminated. G.L. c. 164, §§ 1A through 1H, 94G, 94G1/2; Boston Edison Company et al., D.T.E. 98-13, at 3-5 (1998); Fitchburg Gas and Electric Light Company, D.T.E. 98-13D at 9 (1999).

In addition, the Company is seeking dollar-for-dollar recovery of costs it proposes to allocate from a broader category of costs. Fitchburg's allocation method does not identify the source of the proposed transition costs associated with the divestiture of its power supply portfolio. Dollar-for-dollar recovery denotes some detailed level of accounting and tracking on the part of a distribution company. Consequently, the fact that the Company allocated these costs rather than specifically identifying their source and nature is not sufficient evidence that these costs are related to the Company's divestiture of its power supply portfolio. A company must establish a sufficient record for the Department to ensure that only costs that qualify as transition costs pursuant to the Restructuring Act are included in the transition charge. In order for us to allow recovery of divestiture-related transaction costs, electric companies must show that such costs were "reasonable and necessary." Boston Edison Company, D.T.E. 98-119/126, at 69 (1999). Accordingly, we find that the record is insufficient to support a conclusion that $1,489,334 is a reasonable and necessary administrative and transaction cost that Fitchburg incurred for the divestiture of its power supply portfolio. Therefore, we reject the Company's proposal to recover, through an offset to the RVC,

$1,489,334 of administrative and transaction costs, as identified in Exhibit DTE-6, Attachment 6B, page 91, columns D and F.

The Department now addresses those administrative and transaction costs that Fitchburg determined to be directly related to the divestiture of its generating assets (Exhs. DTE-6, Att. 6B at 91, columns B and G; AG-1-18; Tr. at 274-283). The Company identified $342,333 of administrative and transaction costs, which consist of: (1) $146,558 for Fitchburg's Constellation and Select contracts; (2) $102,954 for Fitchburg's PPA auction; and (3) $92,820 for to the divestiture of Fitchburg's generating assets. The Department finds that the record is sufficient to support a conclusion that these administrative and transaction costs are reasonably related to Fitchburg's divestitures and allows these costs to be included as an offset to the Company's RVC (Exh. AG-1-18; Tr. at 274-283).

The Company also identified $11,143 as general restructuring expenses and $239,294 as "USC bill-restructuring efforts" as part of its divestiture-related administrative and transaction costs (Exhs. DTE-6, Att. 6B at 91, columns C and G; AG-1-18). The Company provided no supporting evidence that demonstrates how these administrative and transaction costs are reasonably related to Fitchburg's divestitures. Therefore, the Department rejects Fitchburg's proposal to recover, through an offset to the RVC, $11,143 as general restructuring expenses and $239,294 as "USC bill-restructuring efforts" (Exhs. DTE-6, Att. 6B at 91, columns C and G; AG-1-18).

D. FAS 109 Regulatory Assets

1. Introduction

In D.P.U./D.T.E. 97-115/98-120, at 64, Fitchburg proposed to recover from ratepayers a deferred income tax asset determined pursuant to Financial Accounting Standards ("FAS") 109.[21,22] In that proceeding, the Department deferred making a finding verifying the Company's FAS 109 regulatory asset balance, pending the completion of the comprehensive audit of Fitchburg's transition costs. Id. The Attorney General disputes the exact balance of the Company's FAS 109 regulatory asset as stated in the comprehensive audit.

The Company determined the total FAS 109 regulatory asset related to depreciation temporary differences[23] as of December 31, 1992, then allocated that amount by rate component (i.e., distribution, transmission, generation) (Tr. at 87-88).[24] In computing the generation portion of the total FAS 109 regulatory asset, the Company determined the ratio of

---

21 A FAS 109 asset arises when a corporation has recovered insufficient deferred income taxes to cover the amount that it expects to pay out in the future at current income tax rates. D.P.U./D.T.E. 97-115/98-120, at 62, n.33. A corporation can also record a FAS 109 liability as the result of over-collection of deferred income taxes. Id. The regulatory asset amount that a corporation must then record on its books results from the recognition of any net deferred income tax deficiency. Id.

22 Pursuant to 220 C.M.R. § 1.10(3), the Department incorporates by reference into the record of this proceeding Original Pronouncements 2000/2001, Accounting Standards as of June 1, 2000, Vol. II, Statement of Financial Accounting Standards No. 109 (Financial Accounting Standards Board).

23 Prior to the effective date of FAS 109, temporary differences were referred to as timing differences.

24 The Company stated that the Department required comprehensive deferred tax accounting for tax timing differences in 1977 and that the FAS implementation date was January 1993 (Tr. at 141-146, 420).

depreciation-related deferred taxes applicable to generation assets to depreciation-related, deferred taxes applicable to all assets and allocated the FAS 109 regulatory asset balance accordingly (id.). Based on this calculation, the Company included $3,127,000 as the generation-related FAS 109 regulatory asset balance arising from depreciation-related temporary differences to be recovered as a transition cost (Exh. DTE-6, Att. 6B at 96). The Arthur Andersen audit reduced this value by $2,262,000 because Fitchburg had used an erroneous balance in deriving its generation-related FAS 109 regulatory asset balance (Exh. AG-1). Fitchburg reduced its generation-related FAS 109 regulatory asset balance by $2,262,000 to comply with the Arthur Andersen audit, resulting in a generation-related FAS 109 regulatory asset balance of $1,024,000 (Exh. DTE-6, Att. 6B at 95; Tr. at 88).

2. Positions of the Parties

a. Attorney General

The Attorney General argues that the Company failed to establish any generation-related FAS 109 regulatory asset that is recoverable as a transition cost under the Restructuring Act (Attorney General Brief at 13). The Attorney General avers that, although the Company's records permit a determination of the total deficiency in the deferred tax reserve as of December 31, 1992 for the Company as a whole (including the transmission and distribution business), they are insufficient to provide the necessary information needed to determine whether its generation activities have produced a FAS 109 deficiency or surplus (id. at 16-17). The Attorney General argues that, as a result of this deficiency, Fitchburg has failed to provide substantial evidence to support any determination regarding the amount of the generation-related FAS 109 regulatory asset balance that qualifies as a transition cost (id.).

The Attorney General questions the existence of a FAS 109 regulatory asset based on the vintage of the generating units that made up the Company's power portfolio[25] and based on Department tax accounting policies that have been in place since 1977 (id. at 18-19, citing Fitchburg Gas and Electric Light Company, D.P.U. 19084, at 9-10 (1977)).[26] The Attorney General contends that there may, in fact, be a generation-related FAS 109 regulatory liability (id. at 19). However, the Attorney General argues that because the Company has not demonstrated that it has a generation-related FAS 109 regulatory asset balance, the Department should remove the $1,024,000 of generation-related FAS 109 regulatory asset balance from transition costs (id.).

The Attorney General argues that, due to the lack of detailed records, the auditors were not able to determine whether deferred taxes were recorded on Fitchburg's generation assets when those units went into service (id.). Thus, the Attorney General argues that the regulatory asset balance for those generation assets may have been negative (id.). The Attorney General states that the auditors testified that the $1,024,000 FAS 109 regulatory asset balance was

---

25 The New Haven Harbor Station has an in-service date of 1975, the Wyman Unit No. 4 has an in-service date of 1978 and Millstone Unit 3 has an in-service date of 1986 (Restructuring Plan, Tab E, Sch. 1, at 5).

26 The Department's 1977 Order requiring comprehensive deferred tax accounting for tax timing differences related solely to the debt portion of the Allowance for Funds Used During Construction account. Fitchburg Gas and Electric Light Company, D.P.U. 19084, at 7-10 (1977). Deferred tax accounting for tax timing differences related to the equity portion of the Allowance for Funds Used During Construction account was not addressed until FAS 109 took effect in 1993.

accepted as reasonable, despite the auditors' inability to verify the existence of any generation-related FAS 109 regulatory asset (id. at 21, citing Tr. at 352). The Attorney General argues that, due to this lack of information, the Department cannot rely on the Arthur Andersen audit for the determination of the FAS 109 regulatory asset balance (id. at 21).

The Attorney General recommends that the Department deny the Company recovery of any FAS 109 regulatory asset balance in the transition charge because the Company has failed to demonstrate that any FAS 109 regulatory asset is attributable to generation (Exh. AG-4, at 12). If the Department determines that the transition charge should include some level of FAS 109 regulatory asset recovery, however, the Attorney General recommends only allowing $188,000, rather than the $1,024,000 proposed by the Company (id. at 10-12). The Attorney General determined this value by allocating the generation portion of the accumulated deferred taxes based on net plant (id. at 11). The Attorney General then determined the difference between this balance and the generation-related accumulated deferred taxes required by FAS 109 (id.). The Attorney General determined the FAS 109 regulatory asset by grossing up this difference for income taxes (id.). The Attorney General then reduced this total by the FAS 109 regulatory liability attributable to the investment tax credit (id.). The resulting total, $188,000, is the amount of the FAS 109 regulatory asset that the Attorney General proposes that the Department allow the Company to recover, if the Department determines that the Company's transition costs should include a FAS 109 regulatory asset balance (id. at 12).

The Attorney General argued that this method is superior to that used by the Company because his method, unlike the Company's, does not assume that a portion of the booked FAS

109 regulatory asset must relate to generation, but instead based his allocation on net utility plant (id. at 11). The Attorney General also stated that his method, unlike the Company's, recognizes the portion of FAS 109 regulatory liability related to the deferred investment tax credit attributable to generation (id. at 12). The Attorney General alleges that the Company's method is "selective" because it accounts only for the depreciation component of FAS 109 (id. at 9). The Attorney General states that other sources of a FAS 109 regulatory asset, such as the investment tax credit, may also result in a generation-related FAS 109 regulatory asset liability (id.). However, the Attorney General argues that the Company's method implicitly assumes that none of these other sources of a FAS 109 regulatory asset balance pertain to generation (id.).

b. The Company

The Company claims that it reasonably utilized allocation methods to assign a portion of the FAS 109 regulatory asset balance, as of December 31, 1992, to the Company's generating assets (Company Reply Brief at 4). The Company asserts that Arthur Andersen found the calculation of the FAS 109 regulatory asset balance using the allocation method proposed by Fitchburg for transition cost recovery to be reasonable and in accordance with the accounting principles of FAS 109 (Company Brief at 16; Tr. at 353). The Company asks the Department to clarify its statement in D.P.U./D.T.E. 97-115/98-120 that the "exact" FAS 109 balance was to be determined by the comprehensive audit, given: (1) the complexity of determining such an amount; and (2) the statutory requirement that a comprehensive audit was required to determine that the Company's transition costs are in "substantial compliance" with G.L. c. 164, § 1G (id.

at 6-7). The Company argues that the $1,024,000 FAS 109 regulatory asset balance included in Exhibit FGE-1 is reasonable and should be approved by the Department (Company Brief at 16).

3. Analysis and Findings

The Attorney General has alleged that the vintage of the Company's generating units in combination with the Department's tax accounting policies, which have been in place since 1977, call into question the existence of a generation-related FAS 109 regulatory asset balance as of December 31, 1992. We disagree. New Haven Harbor and Wyman Unit No. 4 were placed in service in 1975 and 1978, respectively (Restructuring Plan, Tab E, Sch. 1, at 5). The Department began requiring comprehensive deferred tax accounting for tax timing differences for the debt portion of Allowance for Funds Used During Construction ("AFUDC") for Fitchburg in 1977. D.P.U. 19084, at 7-10. Since the debt portion of AFUDC is accrued during the construction phase for an asset, and because New Haven Harbor was placed in service in 1975, deferred income taxes would not have been provided for debt AFUDC for it, and only marginally for Wyman Unit No. 4 because it was placed in service in 1978. Accordingly, undepreciated debt AFUDC with respect to those units, as of December 31, 1992, for which deferred taxes were not provided, would have resulted in a regulatory asset balance in accordance with the principles of FAS 109. In addition, the tax effects of tax to book depreciation timing differences for New Haven Harbor that were flowed through in base rates prior to 1977 would also require the recognition of a regulatory asset pursuant to FAS 109.

Arthur Andersen's audit of the Company's transition costs confirmed that the allocation method used by the Company to determine the generation portion of its FAS 109 regulatory asset balance was reasonable. However, due to the lack of complete records regarding the accounting for the Company's generating assets, Arthur Andersen was unable to investigate whether the Company's generation assets would have, in fact, had a FAS 109 regulatory asset balance as of December 31, 1992.

With respect to Millstone Unit 3, New Haven Harbor and Wyman Unit No. 4, there was no requirement to provide for deferred taxes on the equity portion of AFUDC prior to 1993. FAS 109, which was adopted in 1993, mandated this requirement. Since equity AFUDC was incurred during the construction of these generating units, a regulatory asset for the temporary difference is required in order to comply with FAS 109. Therefore, the Department finds that it is reasonable for the Company to assume the existence of a generation-related FAS 109 regulatory asset balance as of December 31, 1992.

In D.P.U./D.T.E. 97-115/98-120, at 64, the Department stated that the "exact" FAS 109 regulatory asset balance was to be determined by the comprehensive audit. The Department reviewed the comprehensive audit and determined that the results, which included a FAS 109 regulatory asset balance of $1,024,000, are reasonable. Therefore, the Company is allowed to include $1,024,000 of FAS 109 regulatory assets in its transition costs. However, this total is subject to any adjustments that result from the Department's directives stated below.

While the Department has accepted the Company's method of allocating its FAS 109 regulatory asset balance to its generation units, we note that the Company has only incorporated depreciation-related tax timing differences in its calculation. The Department is concerned that other temporary differences, which might give rise to regulatory assets or regulatory liabilities as of December 31, 1992, were not included in the Company's calculation of its transition costs. Therefore, the Department directs the Company to include temporary differences for those accounts that appear on Exhibit AG 2-10, at 264 in its calculation of the FAS 109 regulatory asset balance.[27] Any revisions to the FAS 109 regulatory asset balance shall be incorporated into the Company's next reconciliation filing.

V. OTHER ISSUES

A. Introduction

In this section, we address: (1) the Company's proposal to collect a return on its default service deferrals through the transition charge; (2) the Seabrook Amortization Surcharge ("SAS") settlement; (3) the external transmission charge; (4) the internal transmission service cost adjustment; and (5) the future reconciliation filing requirements.

---

[27] The accounts are as follows: abandoned property; cathodic protection; percentage repair allowance; accelerated cost recovery system/modified accelerated cost recovery system retirements; depreciation; FAS 87-(Pensions); unbilled fuel; bad debt; contributions in aid of construction ("CIAC"); KESOP compensation expense; AFUDC; #7 turbine; overheads; and CIAC depreciation (Exh. AG 2-10, at 264).

B. Default Service Deferrals

1. Introduction

The Company proposes to collect its default service under-recovery of $120,140 at the end of 1998 through its transition charge (Exh. FGE-1, at 106, 116-117). The Company states that collecting the default service under-recovery through the transition charge is consistent with the Company's Default Service Adjustment tariff, M.D.T.E. No. 40 (Exh. FGE-1, at 116; Tr. at 53, 196-197).[28]

Fitchburg states that, pursuant to its Restructuring Plan, the default service balance accrues carrying charges at the same rate as the Company's transition costs, which is Fitchburg's weighted average cost of capital, 12.45 percent (Restructuring Plan, Tab E at 2; Exh. FGE-1, at 106). As a result, Fitchburg proposes to apply the carrying charge rate for its transition costs to its default service balance (Exh. FGE-1, at 106).

2. Positions of the Parties

a. Attorney General

The Attorney General claims that the Company's default service balance transferred to the transition charge account is improperly accumulating carrying charges at the weighted average cost of capital rate of 12.45 percent (Attorney General Brief at 35). The Attorney General argues that default service costs do not qualify as transition costs under the

---

28 The Default Service Adjustment tariff states that the proper interest rate for any over- or under-recovery in the default service balance is the prime rate, fixed on a quarterly basis as reported in the Wall Street Journal on the first business day of the month preceding the calendar quarter. Fitchburg M.D.T.E. No. 40.

Restructuring Act (id., citing G.L. c. 164, § 1G(b)(1)). The Attorney General avers that default service over- or under-recoveries should be accounted for separately and incorporated into appropriate rates upon Department approval (id. at 35). The Attorney General states that the appropriate carrying charge rate is the prime rate, as stated in the Company's Default Service Adjustment tariff (id.).

b. The Company

The Company contends that the default service adjustment has been calculated in accordance with the Company's Default Service Adjustment tariff, M.D.T.E. No. 40 (Company Brief at 29). The Company claims that, pursuant to its Default Service Adjustment tariff, any over- or under-recovery in the default service account is to be included as a credit or debit to the transition charge (id.). Since the transition charge is not fully recovering its costs under the rate cap, however, the Company transferred the default service balance into the transition charge account (id.).

3. Analysis and Findings

Default service deferrals are not categorized as costs recoverable through the transition charge in the Restructuring Plan and in D.P.U./D.T.E. 97-115/98-120. Further, costs associated with default service are not permitted by the Restructuring Act or Department regulations to be recovered as transition costs. G.L. c. 164, § 1G; 220 C.M.R. § 11.03(4). Thus, we reject Fitchburg's proposal to accrue carrying costs at the rate allowed for Department-approved transition costs for any outstanding balance of default service costs. G.L. c. 164, § 1G; 220 C.M.R. § 11.03(4).

In Pricing and Procurement of Default Service, D.T.E. 99-60-C at 13 (2000), the Department stated that default service benefits all customers in that it assures that such service will be provided. The Department concluded that over- or under-recovery of default service should be returned to or recovered from all retail customers through a uniform cents per KWH charge. Id. at 13.

The Company's Default Service Adjustment tariff expressly states that interest on any outstanding balance of default service costs shall be calculated at the prime rate. Therefore, the Department directs the Company to account separately for any default service deferral in the manner approved in D.T.E. 99-60-C and to apply the interest rate that is specified in the Default Service Adjustment tariff, M.D.T.E. No. 40 (i.e., the prime rate, fixed on a quarterly basis as reported in the Wall Street Journal on the first business day of the month preceding the calendar quarter).

C. Seabrook Amortization Surcharge

1. Introduction

In 1985, the Attorney General and the Company entered into, and the Department approved, a settlement agreement ("SAS Settlement"), under which the Company was allowed to recover 55 percent of its net investment in Seabrook Unit 2 over two years with no carrying charges over that period.[29, 30] Fitchburg Gas and Electric Light Company, D.P.U. 85-235, at 3

---

29 Pursuant to 220 C.M.R. § 1.10(3), the Department incorporated by reference into the record Fitchburg's response to IR-AG-2-5, from D.P.U./D.T.E. 97-115/98-120 (Tr. at 380). The SAS Settlement is attachment AG-2-5-A to IR-AG-2-5.

30 In Fitchburg Gas and Electric Light Company, D.P.U. 86-21-A (1987), the Department (continued…)

(1985). The Company was allowed to recover 60 percent of its net investment in Seabrook Unit 1 over 30 years with carrying charges of fourteen percent allowed on the average unamortized balance. Id. The SAS Settlement allowed Fitchburg to recover a portion of its abandoned investments in Seabrook Units 1 and 2 ("Seabrook") through its distribution rates through the SAS, a class-specific charge. Id. In D.P.U./D.T.E. 97-115/98-120, at 55, the Department deferred making a finding on the appropriate level of state tax savings and charges to be included in the SAS until a comprehensive audit verified the exact amount of state tax savings and charges.

The Company presented a calculation of tax savings associated with the Company's abandoned investment in Seabrook in 1984 and 1985 (Exh. AG-3-3; RR-AG-1; Tr. at 90). That calculation did not include state tax savings. Arthur Andersen reviewed Fitchburg's calculation and method of determining state tax savings, and proposed that Fitchburg decrease its total investment in Seabrook by $67,000 to account for state tax savings realized by the Company in 1985, but not included in its previous calculations (Exh. AG-3-3; RR-AG-1; Tr. at 70-71, 90-91).[31] The Company then grossed-up the after tax amount of the abandoned Seabrook investments to provide for the recovery of both federal and state taxes.

---

[30](…continued)
approved a settlement that amended the SAS Settlement to reflect a reduction in federal income tax rates. This amended settlement is attachment AG-2-5-C of Fitchburg's response to IR-AG-IR-2-5 in D.P.U./D.T.E. 97-115/98-120.

[31] Arthur Andersen performed an audit in which it was determined that Fitchburg's investment in Seabrook was $10,175,000 (Exh. AG-1, at 3, 7). This amount was an adjustment of $67,000 from the Company's proposed amount of $10,242,000 (id.).

2. Positions of the Parties

a. Attorney General

The Attorney General argues that the Department should reject Fitchburg's attempt to account for the recognition of state tax savings (Attorney General Brief at 27-28, citing Allstate Insurance Company v Bearce, 412 Mass. 442, 447 (1992); Hamlen v Rendalloh Company, 291 Mass. 119, 123 (1935)). The Attorney General argues that because state taxes were not explicitly mentioned in the SAS Settlement, the settling parties intended to exclude them (Attorney General Brief at 27-28). The Attorney General maintains that even though Arthur Andersen verified the amount of the state tax savings, the scope of the audit did not extend to a consideration of how state tax savings should be recognized under the SAS Settlement (Attorney General Brief at 28; Attorney General Reply Brief at 9, 29). In addition, the Attorney General argues that since the Company has never included state taxes in the determination of the SAS revenue requirement, the SAS is not designed to recover state taxes (Exh. AG-3; Attorney General Brief at 22-24).

Regarding the Company's proposal to adjust its unamortized Seabrook balance by $67,000, the Attorney General maintains that if the Department were to allow for the state tax savings, then the state tax savings should be determined on a pro forma basis rather than on the actual taxes saved, as proposed by the Company (Attorney General Brief at 28-29). The Attorney General argues that, in the absence of the mention of state tax consequences in the SAS Settlement, there is no basis to conclude that any "implicit" agreement to recognize such consequences would be on any basis other than the pro forma basis upon which tax computations are performed for ratemaking purposes (id. at 29).[32]

The Attorney General presented his calculation of the recovery of Seabrook costs assuming that the abandoned Seabrook investment was reduced by state tax savings (Exh. AG-3, at 24-26, Sch. DJE-4, at 2). Those state tax savings were calculated on a pro forma basis and resulted in a reduction in the Company's investment in Seabrook by $942,568 (Attorney General Brief at 31, citing Exh. AG-2-5, Att. A, Exh. B).

b. The Company

The Company contends that the Department should rely on the Arthur Andersen audit to confirm the appropriate amount of Seabrook investment to be recovered through the SAS (Company Reply Brief at 10). The Company avers that the SAS Settlement allows Fitchburg to gross-up the amortization of the abandoned investment in Seabrook for both state and federal taxes (Company Brief at 32). The Company argues that the phrase "income taxes" contained within the SAS Settlement denotes more than one kind of tax and therefore includes the effects of both federal and state taxes (Company Brief at 32; Company Reply Brief at 11). Further, the Company states that since the amortization was calculated, Fitchburg has consistently included both state and federal taxes in the SAS (Company Brief at 33). Regarding the Attorney General's pro forma calculation of the state tax savings attributable to Fitchburg's abandoned investment in Seabrook, the Company argues that there is no record to support this

---

[32] A pro forma calculation assumes that the amount of the abandoned investment in Seabrook was used to reduce state taxable income in an equal amount.

new calculation that was first presented on brief (id. at 34). Finally, the Company claims that it did not receive a state tax savings of the level assumed by the Attorney General in his calculation (id.).

3. Analysis and Findings

The Department must address two distinct tax-related issues with respect to the SAS. First, the Department must determine whether the Company should recognize state taxes in determining tax savings associated with the Seabrook loss. Second, the Department must decide whether the Seabrook after-tax cost (or Seabrook amortization) should be grossed-up for both federal and state taxes.

The Attorney General argues that the Company's proposal to account for the state tax savings attributable to the abandonment of Seabrook is inconsistent with the terms of the SAS Settlement, which provided only for tax savings sharing for federal taxes. In order to assess the Company's proposal and the Attorney General's claim, the Department must review the historical treatment accorded the Company's Seabrook investments. In 1984, the Company terminated its participation in Seabrook Unit 2 and sought to recover its loss in a base rate case. Fitchburg Gas and Electric Light Company, 84-145-A (1985). We note that for Seabrook Unit 2, the Company initially did not include any state tax savings. Id. at 50-51. However, the Department found that it was appropriate to account for state tax savings and directed the Company to recalculate its annual revenue requirement to include a reduction in the Seabrook unamortized balance (or amount to be amortized) resulting from these savings.[33] Id. at 50-51, 58.

The SAS Settlement at 6 defines the Company's investment allowed for recovery as net of tax savings using the method provided for in D.P.U. 84-145-A at 58. As stated above, the Department found in D.P.U. 84-145-A that the Company was in error in not accounting for the state tax savings for Seabrook Unit 2. The Company was directed to revise its computation of the annual revenue requirement by excluding state tax savings as shown in D.P.U. 84-145-A at 58. Contrary to the Attorney General's assertion that the SAS Settlement is silent on the issue of state tax savings, the language in the SAS Settlement and in D.P.U. 84-145-A is clear. Based on the Department's directives in D.P.U. 84-145-A and the terms of the SAS Settlement, the Department finds that Fitchburg shall account for the state tax savings associated with the abandonment of its Seabrook investment.

The Department must now determine the state tax savings attributed to the abandonment of the Seabrook investment. The Company proposed to reduce its unamortized Seabrook balance based on an audit finding by Arthur Andersen.[34] As part of its audit, Arthur Anderson reviewed how the effect of the abandonment of Seabrook affected Massachusetts taxes for the years of abandonment and the ensuing years. Arthur Andersen concluded that because Massachusetts has no provision for net operating loss carryforwards or carrybacks, the only

---

[33] We note that the amortization of the recoverable amount was grossed-up for both federal and state taxes. D.P.U. 84-145-A at 58.

[34] As noted, the Act required the Department to conduct a comprehensive audit of companies' transition costs. G.L. c. 164, § 1G(a)(1). The Department contracted Arthur Andersen to conduct Fitchburg's audit.

state tax savings attributable to the Seabrook abandonment occurred in 1984 and 1985, the actual years of abandonment (RR-AG-1). Arthur Andersen calculated that Fitchburg should have reduced its Seabrook balance by $67,000 to account for the state tax savings attributable to the abandoned investment in Seabrook (id.).[35]

While the Attorney General premises his treatment of state tax savings on the Company's pro forma analysis of its federal tax benefits, we must distinguish between state and federal tax savings. The applicable Massachusetts laws governing utility taxation prohibit losses incurred in other taxable years from being deducted in determining the current year's taxable income. G.L. c. 63, § 52A. As indicated by Arthur Andersen, the Company only could recognize the state tax savings attributable to the Seabrook abandonment in 1984 and 1985, the actual years of abandonment. Although federal tax laws permit net operating loss carry-forwards or carry-backs, Massachusetts tax laws do not. 26 U.S.C.A. § 172; G.L. c. 63, § 52A. Therefore, a pro forma calculation would not be appropriate in determining the state tax savings. Instead, the Company shall reduce its unamortized Seabrook balance by $67,000 to account for the state tax savings attributable to the Seabrook abandonment.

The Department next addresses whether Fitchburg's SAS revenue requirement should include a gross-up of the Seabrook Unit 1 amortization for both state and federal taxes.[36] The

---

35 No state tax benefit can be attributed to Seabrook Unit 2 since the Company was in a loss position before the deduction for the Seabrook Unit 2 abandonment loss (RR-AG-1, at 2).

36 This issue does not apply to Seabrook Unit 2 as the Company already recovered its (continued...)

SAS Settlement at 5-6 refers to the method provided in D.P.U. 84-145-A at 58 for the treatment of taxes. While the calculation for the Company's annual revenue requirement includes a gross-up for both state and federal taxes in D.P.U. 84-145-A at 58, Fitchburg neglected to gross-up for state taxes in the detailed calculation submitted in the SAS Settlement. However, because the calculations contained within the SAS Settlement are based on the revenue requirement calculation in D.P.U. 84-145-A, which included both state and federal taxes, we disagree with the Attorney General's assertion that since the Company has never included state taxes in the determination of the SAS revenue requirement, the SAS is not designed to recover state taxes. Therefore, the Department finds that Fitchburg is entitled to gross-up the amortization of Seabrook Unit 1 for both state and federal taxes on a going-forward basis.

D. External Transmission Charge

The Company provided a reconciliation for the costs associated with the External Transmission Charge (Exh. FGE-7, at 1-2). None of the intervenors commented on this issue. The Company provided evidence that the reconciliation was calculated in accordance with both the Restructuring Plan and its External Transmission Charge tariff, M.D.T.E. No. 35 (Exhs. FGE-1, at 87; FGE-7, at 1-2). The Department finds that the reconciliation of the External Transmission Charge was determined consistent with the Company's Restructuring Plan and

[36](…continued)
investment.

External Transmission Charge tariff and therefore approves the reconciliation of these costs for the period of March 1998 through October 1999.

E. Internal Transmission Service Cost Adjustment

The Company provided a reconciliation for the costs associated with the Internal Transmission Service Cost Adjustment (Exh. FGE-7, at 3-4). None of the intervenors commented on this issue. The Company provided evidence that the reconciliation was calculated in accordance with both the Company's Restructuring Plan and its Internal Transmission Service Cost Adjustment tariff, M.D.T.E. No. 34 (Exhs. FGE-1, at 95; FGE-7, at 3-4). The Department finds that the reconciliation of the Internal Transmission Service Cost Adjustment was determined consistent with the Company's Restructuring Plan and Internal Transmission Service Cost Adjustment tariff and therefore approves the reconciliation of these costs for the period of March 1998 through October 1999.

F. Future Reconciliation Filing Requirements

1. Introduction

On June 20, 2000, the Department requested that the parties comment on the format of future transition charge reconciliation filings. Fitchburg Gas and Electric Light Company, D.T.E. 99-110 (Hearing Officer Briefing Questions (June 20, 2000)). The Department requested comment on a suggested filing format, which contemplates: (1) consistent use of terms, with a full explanation of any terms that were used in the previous reconciliation period and have been changed; (2) a section explaining all new terms found in the filing and spelling out all acronyms found in the filing; (3) a summary table for all charges; (4) line items for individual charges that do not include "buried" costs (i.e., if a certain line item is a combination of several costs, that should be fully explained); and (5) month-by-month totals for all charges.

2. Positions of the Parties

a. Attorney General

The Attorney General agrees that the information suggested by the Department should be included in the Company's subsequent reconciliation filings (Attorney General Brief at 36). In addition, the Attorney General submits that the Company should file the same schedules as BECo and MECo (id.). The Attorney General states that Cambridge Electric Light Company ("Cambridge") and Commonwealth Electric Company ("Commonwealth") have both adopted this format as well (id.). According to the Attorney General, the Cambridge and Commonwealth filings also provide a good illustration of the supporting documentation that should be filed along with the schedules (id.). The Attorney General states that if the underlying documents supporting the proposed adjustment are provided, the need for extensive discovery is reduced (id.).

b. The Company

The Company agrees that use of consistent terms and a section consisting of definitions of terms and acronyms used in the filing would clarify terms used in the filing (Company Brief at 35). The Company is prepared to number its filing by section, with sequential page numbers for the entire document (id. at 35-36). The Company agrees to prepare a summary table of the filing (id. at 36). In order to simplify the presentation of each reconciliation model, the

Company recommends the inclusion of an attachment or appendix that shows the details for certain line items if that item is a combination of several costs (id.).

With respect to the format of future reconciliation filings, the Company states that it has reviewed the filings of Cambridge and Commonwealth (id.). The Company avers that it does not believe that extensive documentation (in the context of the extensive workpapers provided by Cambridge and Commonwealth) is needed to ensure a thorough and reasonable review (id.). However, the Company states that it will provide documentation that it believes is appropriate (id.). The Company believes that specific documentation can be provided through the discovery process more efficiently (id.).

3. Analysis and Findings

The information requested by the Department is essential for an efficient and thorough review of the Company's filing. Therefore, the Department directs the Company to provide this information in future reconciliation filings. With respect to the format of future filings, the Department finds that a similar format for reconciliation filings across distribution companies provides consistency and allows for an efficient review of the filings. The Department agrees with the Attorney General that the Company should adopt the same schedules as Cambridge, Commonwealth, BECo, and MECo. Therefore the Department directs the Company to adopt, in its future reconciliation filings, schedules consistent with those filed by Cambridge, Commonwealth, BECo, and MECo.

In order to maintain continuity during the period for which transition costs are being recovered, we direct the Company to include, in subsequent reconciliation filings, the following: (1) a copy of Fitchburg's Restructuring Plan; (2) pre-filed testimony explaining all of the Company's exhibits, including an explanation of how the following accounts correspond to the previous year's reconciliation filing:

a) Internal Transmission Service Adjustment Charge;
b) External Transmission Service Adjustment Charge;
c) Transition Cost Adjustment;
d) Standard Offer Service Revenue Reconciliation Adjustment;
e) Default Service Charge Reconciliation; and
f) Residual Value Credit.

The Company should include cross-references similar to those provided in the Company's response to Exhibit DTE-18.

The Department disagrees with the Company's statement that specific documentation not provided in the initial filing "can be more efficiently obtained during the discovery process" (Company Brief at 36). The Department and intervenors have no duty to rehabilitate a deficient company filing through discovery.[37] Instead, discovery is intended to reduce hearing time, narrow the scope of issues, protect the rights of the parties, and ensure that a complete and accurate record is compiled. 220 C.M.R. § 1.06 § (6)(c)(1). Further, a company must establish a sufficient record for the Department to ensure that only amounts that qualify as transition costs pursuant to the Restructuring Act are included in the transition charge. The Department directs the Company to file direct testimony describing all revisions contained

---

37 We note the complex nature of reconciliation filings and acknowledge that discovery is likely. Nevertheless, a petitioning company should provide a reasonable, reviewable and appropriately documented filing for Department approval. Massachusetts Electric Company, D.P.U. 92-217-B at 4-5 (1994) (in order to recover costs for (pre-restructuring) demand-side management programs, electric companies required to demonstrate that their filings are reviewable, appropriate, and reliable).

within the filing along with all supporting documentation in future reconciliation filings. Transparency will only serve to reduce the need for lengthy hearings and extensive discovery.

As noted in Section III.B.3 above, we have required Fitchburg to file with the Department its annual transition charge reconciliation filings by December 1st of each year. Fitchburg presently has pending before the Department a request for approval of its Revised Electric Restructuring Rate Adjustment Filing for 2000 with accompanying tariffs effective January 1, 2001. Fitchburg Gas and Electric Light Company, D.T.E. 00-107. We direct the Company to revise its filing in D.T.E. 00-107 consistent with the findings and directives contained in this Order, and to incorporate the revised D.T.E. 00-107 filing into Fitchburg's next annual transition charge reconciliation filing due December 1, 2001.

VI. ORDER

Accordingly, after due notice, hearing and consideration, it is therefore

ORDERED: That Fitchburg Gas and Electric Light Company comply with all directives contained in this Order.

By Order of the Department,

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).